

REQUEST FOR PROPOSALS FOR LEGAL SERVICES RELATED TO PUBLIC EMPLOYEE BENEFITS

INTRODUCTION

The City of Seattle ("the City") is requesting proposals from law firms to provide representation and advice to the City in the areas of public employee benefits and taxation of employee benefits including administration of employee benefit, deferred compensation and pension plans consistent with state and federal law ("employee benefit services"). The City intends to enter into contracts with two firms to provide legal services as-needed on a matter-by-matter basis.

SCOPE OF REPRESENTATION

Outside counsel services will be engaged as needed on a matter-by-matter basis. Specific assignments may include researching, advising, negotiating, drafting, and/or reviewing documents, and attendance at meetings.

PROPOSAL CONTENT

The City will accept proposals from individual attorneys as well as law firms. The successful proposer should have a minimum of 5 years experience in providing employee benefit services.

- Provide the qualifications and experience of the specific individual(s) who will provide advice under this engagement. Identify the lead attorney.
- The resumes of the particular attorneys who would be engaged in the representation should be included in the proposal. If available, a firm brochure should also be included.
- Provide at least two references for each attorney including at least one governmental entity. Provide the name, agency, address, and phone number for each reference.
- In one page or less, explain why the City should consider the attorney or firm.
- Disclose any potential or actual conflicts of interest. "Conflict of interest" shall have the meaning as described in the Washington Rules of Professional Conduct.
- List the hourly rates of each attorney who will provide service under this contract, and the hourly rates of any paralegals and/or any other personnel. The hourly rate quoted should include all salary and compensation, overhead expenses, profits and other employee costs, including but not limited to clerical and word processing expenses. Indicate what, if any, expenses you propose to bill in addition to the

hourly legal fees and the basis for the charges for such expenses. If rates will be adjusted at any time during the course of representation, the method for such adjustment should be identified. Proposals should include alternatives to hourly billing, if applicable, including but not limited to fixed price representation or limited scope representation, provided these are consistent with the Washington Rules of Professional Conduct.

- Describe your affirmative action/equal opportunity record.

PROPOSAL FORMAT, DELIVERY, AND OTHER REQUIREMENTS

All Proposer communications regarding this RFP must be directed to the City's representative named below.

Name: Jean Boler
Phone: (206) 684-8207
Email: jean.boler@seattle.gov

Proposals and questions should be submitted via electronic mail to:

jean.boler@seattle.gov

All proposals must be received by **May 26, 2010**. Late proposals will not be considered. The City reserves the right to reject any and all proposals in its sole discretion.

METHOD OF PROPOSAL EVALUATION

The City will evaluate all properly submitted proposals by way of an internal review panel. Oral interviews may be required prior to final selection. Peter Holmes, the City Attorney, will make the final selection of the firms/attorneys to be retained by the City after consultation with the review panel.

The criteria and weightings for evaluation will be as follows:

- a) Qualifications, experience, competence, and location of the firm
and individuals to be assigned----- 50%
- b) Fees and Billing Policies ----- 25%
- c) Expected level of service, clarity of presentation, affirmative
action/equal opportunity record, and other factors ----- 25%

CONTRACT

The City will execute a contract based on the City Attorney's Office standard letter contract for outside counsel. If unable to reach agreement with the proposer(s) initially selected, the City may terminate contract negotiations and reserves the right to select and negotiate with the proposer(s) with the next highest ranked proposal(s).

REQUIRED CONTRACT TERMS

Any resulting contract with the successful proposers shall contain the following terms. The successful proposer is herein referenced as the “Consultant.”

Equal Employment Opportunity and Outreach

- A. The Consultant shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Consultant shall take affirmative efforts to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap. Such efforts shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship.
- B. If the Consultant will hire employees for this project, the Consultant shall make affirmative efforts to recruit minority and women candidates. Affirmative efforts may include the use of advertisements in publications directed to minority communities and other targeted recruitment efforts, and using the services of available minority community and public organizations to perform outreach.
- C. The Consultant shall maintain, for at least 24 months after the expiration or earlier termination of this Agreement and permit access to the Consultant’s records of employment, employment advertisements, application forms and other pertinent data and records requested by Seattle City Attorney’s Office for the purposes of investigation to determine compliance with the requirements of this section.
- D. The Consultant, by executing this Agreement, is affirming that the Consultant complies with all applicable federal, state, and local non-discrimination laws, particularly the requirements of SMC Ch. 20.42 as incorporated in this Agreement. Any violation of the requirements of the provisions of this section noted in paragraph A, B and C above shall be a material breach of Agreement for which the Consultant may be subject to damages and sanctions provided for by the Agreement and by applicable law, including but not limited to debarment from City contracting activities in accordance with SMC Ch. 20.70.
- E. The foregoing provisions of this section shall be inserted in all subcontracts for the Work covered by this Agreement.

Nondiscrimination in Employee Benefits

- A. Compliance with SMC Ch. 20.45: The Consultant shall comply with the requirements of SMC Ch. 20.45 and Equal Benefits Program Rules implementing such requirements, under which the Consultant is obligated to provide the same or equivalent benefits (“equal benefits”) to its employees with domestic partners as the Consultant provides to its employees with spouses. At the City’s request, the Consultant shall provide complete information and verification of the Consultant’s compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Contract. *(For further information about SMC Ch. 20.45 and the Equal Benefits Program Rules call (206) 684-0430 or review information at <http://cityofseattle.net/contract/equalbenefits/>.)*
- B. Remedies for Violations of SMC Ch. 20.45: Any violation of this Section shall be a material breach of Contract for which the City may:
 - (1) Require the Consultant to pay actual damages for each day that the Consultant is in violation of SMC Ch. 20.45 during the term of the Contract; or
 - (2) Terminate the Contract; or
 - (3) Disqualify the Consultant from bidding on or being awarded a City contract for a period of up to five (5) years; or
 - (4) Impose such other remedies as specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.

Other Requirements

- A. Term of Agreement. Subject to the City’s termination right (see “Other Proposal Requirements” below), the initial term of the agreement will be for three years with an option for the City to extend the term for another two years. The term will not exceed five years.
- B. Maximum Compensation. The maximum amount of total compensation awarded Consultant under the contract will not exceed \$100,000 over the term of the contract.
- C. Use of Recycled Content Paper: The Consultant shall use, whenever practicable, recycled content paper on all documents submitted to the City, in accordance with SMC 3.38.904.
- D. Americans with Disabilities Act: The Consultant shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Agreement. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this contract.
- E. Fair Contracting Practices Ordinance: The Consultant shall comply with the Fair Contracting Practices Ordinance of The City of Seattle (Chapter 14.10 SMC), as

amended. Conduct made unlawful by that ordinance constitutes a breach of contract. Engaging in an unfair contracting practice may also result in the imposition of a civil fine or forfeiture under the Seattle Criminal Code as well as various civil remedies.

- F. Non-Transferable. The Consultant will not assign, transfer or subcontract any portion of the scope of work.

INSURANCE REQUIREMENTS

The City reserves the right to require that you or your firm provide evidence of insurance against claims for injuries to persons or damages to property (including legal malpractice) which may arise out of or in connection with the performance of the contract for legal services, to the extent of the coverage described below:

Minimum Coverage Requirements:

1. Commercial General Liability - Occurrence Form
(Form CG 0001, ed. 10/93 or any replacements thereof) General Aggregate
\$5,000,000
Personal and Advertising Injury \$1,000,000 Each
Occurrence \$5,000,000
2. The firm and/or attorneys shall provide Professional Liability (E&O) insurance in an amount not less than \$1,000,000 per loss and in the aggregate to cover the firm and/or attorneys, its employees, and others retained by the firm and/or attorneys. The coverage shall be specific to the work required under the Agreement. If coverage is to be provided on a claims-made basis, the firm and/or attorneys shall warrant that any policy retroactive date precedes the effective date of the Agreement. In addition, the firm and attorneys shall maintain continuous coverage throughout the Agreement and for one year beyond the completion of the Agreement, or the firm and/or attorneys shall purchase an extended discovery period for not less than one year from the completion of the work.
3. The firm and/or attorneys are also responsible for complying with the Washington State laws that pertain to industrial insurance (Title 51 RCW) for its employees, contractors, and subcontractors.

Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that the insurer reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees and volunteers. Any modification or variation from these insurance requirements shall be made by the City Attorney's Office and/or the City's Risk Management Analyst in the City's sole discretion.

CONFLICTS OF INTEREST

The firms or attorneys who are ultimately selected to represent the City will be prohibited from engaging in or carrying on any legal work on behalf of any client which is directly adverse to the City or its interests, without the specific written consent and waiver of the City Attorney's Office. Waivers will be evaluated on a case-by-case basis. Any firm or

attorney engaged to represent the City shall have a continuing duty to disclose such information.

OTHER PROPOSAL REQUIREMENTS

The name of the City shall not be included in any promotional or advertising materials by a contracting firm or attorney without the prior written approval of the City's Attorney's Office.

The City shall have the right to terminate any contract for legal services at any time, with or without cause. The decision to terminate shall be at the sole discretion of the City Attorney.

This RFP and any resulting contract shall not be construed to confer any exclusive benefit to a proposer. Execution of a contract does not guarantee that any matter or any minimum number of matters will be assigned to any particular firm(s) or attorney(s). Depending upon its needs, the City may elect to use another firm to provide employee benefit services. The decision to retain any particular firm(s) or attorney(s) will be solely within the discretion of the City Attorney's Office on a matter-by-matter basis.

The City Attorney's Office reserves the right to retain and assign legal matters to any particular firms(s) or attorney(s), including firms that do not submit a proposal to this RFP.

The City reserves the right to designate a specific attorney(s) in a selected law firm to work on specific matters as lead counsel or associate lead counsel for the services rendered pursuant to any contract. The City further reserves the right to approve any attorney offered to provide services.

PRIVILEGED COMMUNICATIONS

All confidential communications between the City, its officers, employees or agents, and retained counsel, whether oral or written, and all documentation whether prepared by outside counsel or the City shall be considered privileged and shall not be disclosed except by the written consent of the City Attorney.

PUBLIC ACCESS TO PROPOSAL INFORMATION

Each respondent recognizes that any information submitted to the City in proposal to this RFP, including proposed fees and fee structures, is subject to disclosure pursuant to the Washington Public Records Act, Chap. 42.56 RCW.

CITY'S RESERVATION OF RIGHTS

All costs of responding to this RFP shall be the sole responsibility of the proposers. The City reserves the right to enter into agreements for legal services with persons not responding to this RFP or to continue or extend present agreements or engagements with persons or firms who do not respond. The City further reserves the right to reject any and all proposals and to waive immaterial irregularities in its sole discretion.